

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

DAVID A. KOSTELEK,)	Civ. 14-4051-KES
)	
Petitioner,)	
)	ORDER ADOPTING REPORT AND
vs.)	RECOMMENDATION AND DENYING
)	PETITION FOR WRIT OF HABEAS
J.S. WILLIS, Warden,)	CORPUS
)	
Respondent.)	

Petitioner, David A. Kostelec, filed a petition for relief under 28 U.S.C. § 2241 on April 8, 2014. Docket 1. This court referred the petition to United States Magistrate Judge John E. Simko pursuant to 28 U.S.C. § 636(b)(1)(B) for the purposes of conducting any necessary hearings and issuing a report and recommendation for the disposition of Kostelec's § 2241 petition. On May 20, 2014, Magistrate Judge Simko issued a report and recommendation finding that the subject matter of Kostelec's petition was "outside the boundaries of relief which may be sought through a § 2241 Petition." Docket 4 at 3. Moreover, Judge Simko found that Kostelec failed to maintain his burden to show a remedy under § 2255 is inadequate or ineffective and therefore, this court is without jurisdiction to entertain his § 2241 claims. *Id.* at 6.

No objections to the report and recommendation were filed pursuant to 28 U.S.C. § 636(b)(1), and the time for filing objections has passed. The court

has considered the case de novo. Kostelec has not objected to the report and recommendation. Therefore, it is

ORDERED that the report and recommendation of Magistrate Judge Simko (Docket 4) is adopted in its entirety. This case is dismissed.

Dated June 10, 2014.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE